

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Robert Lee Clayton, Jr., #286814,)	
)	
Plaintiff,)	C/A No. 8:14-789-RBH
)	
vs.)	ORDER
)	
State of S.C.,)	
)	
Defendant.)	
_____)	

Plaintiff is an inmate in the South Carolina Department of Corrections. This matter is before the Court on Plaintiff's April 28, 2014, motion for stay or extension of time [doc. 16], wherein he requests a stay or additional time to bring this action into proper form. On March 25, 2014, this Court entered an Order [doc. 7] directing Plaintiff to provide necessary information and paperwork within twenty-one days. When Plaintiff did not respond to this Court's Order, this Court dismissed the action without prejudice by Order and Judgment entered April 24, 2014 [doc.12, 14]. Upon review of Plaintiff's motion for stay or extension of time, it appears that it was stamped as delivered to the prison mail room on April 23, 2014, so it is deemed filed as of that date [doc. 16-1 at1]. *See Houston v. Lack*, 487 U.S. 266, 270–72 (1988) (prisoner's pleading was filed at moment of delivery to prison authorities for forwarding to District Court). Thus, at the time this Court entered the Order dismissing this action on April 24, 2014, it was unaware of Plaintiff's request for extension of time that had been filed on April 23, 2014. This Court believes that it is in the interest of justice to reopen this action so that it may consider Plaintiff's motion for stay or extension of time. Accordingly, pursuant to Fed. R. Civ. P. 59, this Court, on its own, will alter the judgment in this action by vacating it.

IT IS ORDERED that the April 24, 2014, Judgment and Order dismissing this action without prejudice are hereby vacated. This action is remanded to the United States Magistrate Judge for further proceedings.

IT IS SO ORDERED.

s/R. Bryan Harwell

R. Bryan Harwell
United States District Judge

April 30, 2014
Florence, South Carolina